

BERTA REITBERGER

MARCH 19, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. WALTER, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 1313]

The Committee on the Judiciary, to whom was referred the bill (H. R. 1313) for the relief of Berta Reitberger, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Berta Reitberger, the fiancée of Eugenio Marquez, a citizen of the United States, shall be eligible for a visa as a nonimmigrant temporary visitor for a period of three months: *Provided*, That the administrative authorities find that the said Berta Reitberger is coming to the United States with a bona fide intention of being married to the said Eugenio Marquez and that she is found otherwise admissible under the immigration laws, except that the provision of section 212 (a) (9) of the said Act shall be inapplicable in her case: *Provided further*, That the exemption provided for in this Act shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act. In the event the marriage between the above-named persons does not occur within three months after the entry of the said Berta Reitberger, she shall be required to depart from the United States and upon failure to do so shall be deported in accordance with the provisions of sections 242 and 243 of the Immigration and Nationality Act. In the event that the marriage between the above-named persons shall occur within three months after the entry of the said Berta Reitberger, the Attorney General is authorized and directed to record the lawful admission for permanent residence of the said Berta Reitberger as of the date of the payment by her of the required visa fee.

PURPOSE OF THE BILL

The purpose of this bill, as amended, is to facilitate the admission into the United States of the fiancée of a United States citizen.

The bill has been amended in accordance with established precedents.

GENERAL INFORMATION

The beneficiary is a 45-year-old native and citizen of Germany who is the fiancé of a citizen of the United States. She has been unable to obtain a visa to enter the United States because of 2 convictions in 1950, in Germany, for fraudulently receiving the equivalent of \$140 from a welfare office. She resides in Germany with her two children and is employed as a waitress in a noncommissioned officers' club of the United States Army.

The pertinent facts in this case are contained in a letter dated June 29, 1956, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary regarding a bill then pending for the relief of the same person. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
OFFICE OF THE COMMISSIONER,
Washington, D. C., June 29, 1956.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H. R. 7446) for the relief of Berta Reitberger, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the San Francisco, Calif., office of this Service, which has custody of those files.

The bill would waive the provisions of the Immigration and Nationality Act which exclude from admission into the United States aliens who have been convicted, admit the commission, or admit committing the essential elements of a crime involving moral turpitude, and would grant the beneficiary permanent residence if she is found to be otherwise admissible. The bill would also provide that this exemption shall apply only to grounds for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of the bill.

Sincerely,

J. M. SWING, *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND
NATURALIZATION SERVICE FILES RE BERTA REITBERGER,
BENEFICIARY OF H. R. 7446

Information concerning the case was obtained from Eugenio Marquez, who is a friend of the beneficiary.

Berta Reitberger, nee Seeboeck, a native and citizen of Germany who has never been in the United States, was born on September 25, 1912. Her marriage to Franz Xaver Richter in 1934 was terminated by divorce in 1939. A daughter, Gertraud Therese Richter, was born of that marriage. Her marriage to Franz Xaver Reitberger in 1942 was

terminated by divorce in 1949. A son, Heinz Andreas Reitberger, was born of that marriage. The beneficiary lives with her children in Bad-Toelz am Ried No. 1, Germany (Bavaria) where she is employed as a waitress in a noncommissioned officers' club of the United States Army. Her nephew, Johann Seeboeck, lives in the United States.

The beneficiary is alleged to have applied for an immigrant visa at the United States consulate in Munich, Germany, but to be ineligible to receive a visa because of the conviction for taking some form of relief in 1948 while she was operating a store in Germany. The committee may desire to request the Bureau of Security and Consular Affairs, Department of State, to secure information in this connection.

Eugenio Marquez, a native of the Philippines and naturalized United States citizen, was born on January 8, 1905, in Balaoan, La Union, Philippine Islands. He was married to Frances Mattie Holton on October 9, 1936. That marriage was terminated by divorce on July 12, 1949. Their three children, Lenore, Ramona, and Rosalia, ages 16, 11, and 9, respectively, now live with the mother at 738 Georgia Street in Vallejo, Calif. Mr. Marquez resides at 123 York Street in Vallejo. He has been employed as a pipefitter since 1936 at the Mare Island Naval Shipyard and now earns an hourly wage of \$2.41. In addition, he receives \$40 monthly rental income. His assets consist of a house, automobile, furniture and personal possessions value at \$11,900 on which he owes \$3,675. He contributes \$125 monthly towards the support of his children, and also sends about \$150 yearly each to a sister and a brother in the Philippines.

Mr. Marquez and the beneficiary have never met. They started corresponding in 1953 at the suggestion of mutual friends. Mr. Marquez testified that he has suggested marriage to the beneficiary and that he has sent affidavits of support to assist her in obtaining an immigrant visa.

The Director of the Visa Office, Department of State, submitted the following report on this legislation:

DEPARTMENT OF STATE,
Washington, October 13, 1955.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CELLER: Reference is made to your letter of August 3, 1955, and its enclosures, wherein you requested a report of the facts in the case of Mrs. Berta Reitberger, beneficiary of H. R. 7446, 84th Congress, 1st session.

There are enclosed two copies of a self-explanatory communication dated September 17, 1955, from the American consulate general at Munich, Germany.

From the information contained in the enclosure, it would appear that Mrs. Reitberger would be ineligible to receive a visa under section 212 (a) (9) of the Immigration and Nationality Act.

At this time the Department has no knowledge of any factor in Mrs. Reitberger's case, other than the information contained in the

enclosures, which would render her ineligible to receive an immigrant visa. However, it should be borne in mind that any ground of ineligibility which may come to light prior to visa issuance would preclude her from receiving a visa.

Sincerely yours,

ROLLAND WELCH,
Director, Visa Office.

Enclosure: From American consulate general at Munich, Germany,
September 17, 1955.

OPERATIONS MEMORANDUM

To: Department of State. Date: September 17, 1955
From: Amcon—, Munich, Germany.
Subject: Visas: Immigrant visa case of Berta Reitberger nee Seeboeck.

Reference: Department OEV 156 of September 7, 1955.

Mrs. Reitberger nee Seeboeck registered for immigration to the United States on October 14, 1954, under the German quota. In the course of the processing of her case it was determined that she had been convicted on two occasions. Her first conviction occurred November 11, 1942. She was at that time convicted under the provisions of section 164 of the German Criminal Code, and was sentenced to a term of 6 weeks in prison. Section 164 of the German Criminal Code reads as follows:

"CASTING FALSE SUSPICION—FALSCHER VERDAECHTIGUNG

"164. (As amended 26 May 1933; RDBI I, 295). Whoever before a public authority (Behoerde) or an official charged with the duty of receiving denunciations concerning offenses, or before a military commander, or in public, casts upon another suspicion of the commission of an offense or breach of official or service duty with full knowledge of the falsity of the suspicion and does so with the design to cause initiation or continuation of official proceedings or measures against the suspected person, shall be punished for false accusation by imprisonment for not less than one month."

Mrs. Reitberger was again convicted on April 20, 1950, of fraud under the provisions of section 263/I of the German Criminal Code in that she had during the period from July 1, 1949, to December 31, 1949, fraudulently received 592 deutschemarks from the German welfare office at Bad Tola, Germany. For this offense she was sentenced to a term of 3 months. Since the sum involved in this fraud, at the official rate of exchange at the time was equivalent to \$140.95, the offense was determined by this office to constitute a felony and she was in January 27, 1955, refused an immigration visa under the provisions of section 212 (a) (9) of the Immigration and Nationality Act as modified by section 4 of Public Law 770.

Section 263 of the German Criminal Code reads: "Whoever with the intention of procuring unlawful material

benefit for himself or a third party causes damage to the property of another by leading such other into error or maintaining him therein by means of the representation of falsehoods as facts or the misrepresentation or concealment of existing facts shall be punished for fraud by imprisonment. In addition fine and loss of civil rights may be imposed."

If certified translations of the court records are desired they will be prepared and forwarded to the Department upon request.

Mr. Baldwin, the author of H. R. 1313, appeared before a subcommittee of the Committee on the Judiciary and testified as follows:

Mr. Chairman, I appreciate the opportunity to appear before your committee to testify in favor of H. R. 1313, a private bill I have introduced for the relief of Mrs. Berta Reitberger. I originally introduced this bill in the 84th Congress as H. R. 7446.

This bill would make possible the admission into the United States of Mrs. Berta Reitberger. At present Mrs. Reitberger is barred from coming to the United States by section 212 (a) (9) of the Immigration and Nationality Act, as she had been convicted on two occasions. These convictions were relatively minor.

Mrs. Reitberger desires to come to the United States to be married, and her intended spouse is Mr. Eugene Marquez, 123 York Street, Vallejo, Calif., who is my constituent. Mr. Marquez is now employed at Mare Island Naval Shipyard, and is very anxious that this private bill be passed. Mr. Marquez has provided the necessary affidavits of support to assist Mrs. Reitberger in obtaining admission to the United States. I have introduced this private bill at the request of Mr. Marquez, and on his behalf would like to urge that the committee take favorable action upon the measure.

MARCH 17, 1958.

Upon consideration of all the facts in this case, the committee is of the opinion that H. R. 1313, as amended, should be enacted and accordingly recommends that the bill do pass.

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